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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/023,416	02/13/1998	TADAHIRO OHMI	980150	6923

7590 08/09/2005

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EXAMINER

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3753

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/023,416
Filing Date: February 13, 1998
Appellant(s): OHMI ET AL.

MAILED
AUG 09 2005
Group 3700

John F. Carney
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 5, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of invention contained in the brief is disagreed with because, at page 7, lines 1-2, it is stated that the valves are connected "by substantially identically formed joint members 31, 33, 34, 36 and 39". Paragraph e) of the claim says nothing about the mounts or joint members being substantially identical.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

JP 7-286720

Itafuji

10-1995

A translation of the reference is attached.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by JP 7-286720. This rejection is set forth in a prior Office Action, mailed on May 12, 2004.

(10) Response to Argument

It should be noted that claim 1 is a generic claim which covers the different embodiments shown in Figure 2, including the leftmost embodiment where there is one on/off valve upstream of the MFC and one on/off valve downstream of the MFC.

Appellant argues that paragraphs a) and b) of the claim distinguishes over JP 7-286720 because the reference does not show the other embodiments. However, the

claim is a Markush type claim and is met if any one of the elements of the group is found. The reference anticipates the leftmost embodiment of Figure 2 of the application.

Appellant argues that paragraph e) of the claim distinguishes over the reference because only one end of the passages opens to the top surface. However, the claim simply does not require anything more. Passage 18, for example, is formed within the block 11 and opens in the upper surface of the block where it communicates with a port of valve 56, and operatively interconnects the valve 56 with the MFC. The reference fairly responds, word for word, to the claim language. The claim does not require both ends of the passage to open to the top surface.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

John Fox


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